

LETTER
FROM
THE SECRETARY OF THE INTERIOR,

TRANSMITTING

Supplemental report of the surveyor-general of New Mexico on the private land claim No. 131.

JANUARY 4, 1889.—Referred to the Committee on Private Land Claims and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, January 3, 1889.

SIR: In pursuance of the requirements of the 8th section of the act of Congress approved July 22, 1854 (10 Stat., 308), I have the honor to transmit herewith for Congressional action the supplemental report of the United States surveyor-general for New Mexico on the private land claim in said territory known as the Polvareda grant, No. 131; also copy of a letter from the Commissioner of the General Land Office, dated December 27, 1888, transmitting the report.

Very respectfully,

WM. F. VILAS,
Secretary.

THE PRESIDENT OF THE SENATE PRO TEMPORE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., December 27, 1888.

SIR: I have the honor to transmit herewith, for submission to Congress, the supplementary report, in duplicate, of the surveyor-general for New Mexico, on the private land claim known as the Polvareda grant, No. 131.

I am, sir, very respectfully, your obedient servant,

S. M. STOCKSLAGER,
Commissioner.

Hon. WILLIAM F. VILAS,
Secretary of the Interior.

[Private land claim known as Juan Pablo Martin or Polvareda grant, reported No. 131.]

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
Santa Fé, N. Mex., December 14, 1888.

The claim in this case purports to have been filed by the heirs and legal representatives of said John Pablo Martin on the 17th day of March, 1876, claiming title under a grant made by the governor of New Mexico dated February 12, 1766, to a tract of land in what is now Rio Arriba County, bounded on the east by the straight road crossing the line of the pueblo of Santo Tomas, and running southward therefrom towards the Cerro Pelado; on the south by the head of the Polvareda Creek; on the west by the Pederal Mountain Creek; and on the north by the junction of the Pederal Creek with the Polvareda Creek. On the 22d of December, 1882, the claim was considered by Surveyor-General Atkinson, who recommended its confirmation, and forwarded his opinion to the General Land Office with the papers duly certified as required. The case is now before me for re-examination under instructions from the General Land Office.

The title-papers on file in this office are believed to be genuine, but there are two valid objections to the action of Surveyor-General Atkinson in recommending the approval of the claim. In the first place, it is filed by the heirs and legal representatives of the grantee without stating the names of any of them. Some responsible party or parties should have been named as the present claimants, and without this information it was not the duty of this office to investigate the title. One of the witnesses, Juan de Jesus Trujillo, testifies that ten persons, some of whom he names, reside on the land, and that they claim it as a grant which they purchased from the heirs of the grantee; but no papers are filed which identify them as purchasers and give evidence of the transfer of title to them. It is not the duty of the Government to show these facts, but it devolved upon the present claimants, who have failed to perform it. For aught that appears, the heirs may all have died without making any legal transfer to any one; or there may have been no heirs, in which case the land would escheat.

In the next place the conditions of the grant are not shown to have been complied with. The grant is shown to have been made with the qualification and condition that the grantee shall settle the same within the time prescribed by law, and "shall settle and occupy it four years in order to acquire legal title in fee and dominion." There is no proof that this was done. The juridical delivery of possession which was duly made does not dispense with the necessity of showing a compliance with the conditions of title. The witness first mentioned, who was born in 1806, testifies that he has known the place since he was six years old, but that he never heard of the grant till about ten years ago. This is a remarkable statement. He may have heard of the grant from the ten persons then residing on the land, and they may have invented their claim, as there is nothing to show how they acquired it. If it were shown that the heirs and legal representatives of the grantee have continuously possessed and occupied the land since his death to the filing of their petition, as it avers, a compliance with the conditions of the grant might be presumed; but no such showing is made.

The only other witness in the case is José Guadalupe Gallegos, who is seventy-seven years old, and says Pablo Martinez, the grantee, lived on the grant when he (the witness) first knew it, between the years 1825 and 1830, and that the grantee was then a middle-aged man. As the grant is shown to have been made in February, 1766, when the grantee already had a large family, the statement that he was a middle-aged man between 1825 and 1830 can not be accepted as true. The statement is not material, but it discredits his testimony. As the witness, moreover, never heard of the grant till the date last named, though he says he has known the land ever since he can remember, his testimony, like that of the other witness, gives color to the suspicion of a trumped-up claim, instead of affording satisfactory proof of its validity. It certainly does not show a continuous occupancy of the land by the heirs and representatives of the grantee, nor a compliance with its conditions. I do not think it was contemplated by our treaty with Mexico of 1848, and the act of Congress of July 22, 1854, to surrender the rights of the United States in cases of this character on proof so utterly inconclusive and unsatisfactory. I therefore recommend the rejection of this claim by Congress.

Copies in triplicate of this opinion are forwarded as required for the purpose of having it duly considered in connection with the other papers in the case heretofore forwarded and on file in the General Land Office and before Congress.

GEO. W. JULIAN,
Surveyor-General.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
Sante Fé, N. Mex., December 15, 1888.

I hereby certify that the foregoing on two pages is a full, true, and correct copy of the original, from which it was made, which original, designated as No. 12, is on file in this office in the matter of private land claim No. 131, in the name of Juan Pablo Martin, for the Polvareda tract.

In witness whereof I have hereunto subscribed my name and caused the official seal of this office to be affixed at the city of Santa Fé, this 15th day of December, A. D. 1888.

[SEAL.]

GEO. W. JULIAN,
United States Surveyor-General for New Mexico.



